A Bill to consolidate and amend the law relating to Courts of Small Causes in Mysore.

(AS AMENDED BY THE SELECT COMMITTEE.)

[*N.B.—The portions in square-brackets are those omitted and those in italics newly added by the Committee.*]

Whereas it is expedient to consolidate and amend the law relating to Courts of Small Causes in Mysore; His Highness the Maharaja is pleased to enact as follows:—

[CHAPTER I.]

[PRELIMINARY.]

Title, extent and commencement.

1. (1) This Regulation may be called "The Mysore Small Cause Courts Regulation, 19 ."

(2) It extends to the whole of Mysore.

(3) It shall come into force on the 1st day of 19 .

But the provisions of Section 8 shall come into force only in such Courts and from such dates as may be notified by Government in the Official Gazette.

Repeal of Act XI of 1865.

2. (*a*) *From and after that date, Act XI of 1865 as applied to Mysore by the Notification of the Government of India in the Foreign Department, No. 31—I. J., dated the 28th January 1880, shall be repealed.*

Construction of references to Act XI of 1865.

(*b*) Any enactment or document referring to Act XI of 1865 shall, so far as may be, be construed to refer to this Regulation or to the corresponding portion thereof.

Savings.

3. Nothing in this Regulation shall be construed to affect—

(*a*) any proceedings before or after decree in any suit instituted before the commencement of this Regulation; or

[(*b*) the jurisdiction of a Magistrate under any law for the time being in force with respect to debts or other claims of a civil nature; or]

[*c*] (*b*) any local or any special law other than the Code of Civil Procedure.

Definition.

[4. In this Regulation, unless there is something repugnant in the subject or context, "Court of Small Causes" means a Court of Small Causes constituted under this Regulation, and includes any person exercising jurisdiction under this Regulation in any such Court.]

[CHAPTER II.]

[CONSTITUTION OF COURTS OF SMALL CAUSES.]

[Establishment of Courts of Small Causes.]

[5. (1) The Government may, by order in writing, establish a Court of Small Causes at any place in Mysore.

(2) The local limits of the jurisdiction of the Court of Small Causes shall be such as the Government may define, and the Court may be held at such place or places within those limits as the Government may appoint.]

Judge.

[6. When a Court of Small Causes has been established, the Government shall, by order in writing, appoint a Judge of the Court.]

Suspension and removal of Judges.

[7. A Judge of a Court of Small Causes may be suspended or removed from office by the Government.]

[8. The Government shall allow a Court of Small Causes such establishment of ministerial officers as may be necessary; and subject to any orders made by the Government in this behalf, the Judge of a Court of Small Causes may appoint the ministerial officers of the Court and may fine, suspend or dismiss them.]

Ministerial officers.

[9. (1) The ministerial officers of a Court of Small Causes shall, in addition to any duties mentioned in this Regulation or in any other enactment for the time being in force as duties which are or may be imposed on any of them, discharge such duties of a ministerial nature as the Judge directs.

Duties of ministerial officers.

(2) The Chief Court may make rules, consistent with this Regulation and with any other enactment for the time being in force, conferring and imposing on the ministerial officers of a Court of Small Causes such powers and duties as it thinks fit, and regulating the mode in which powers and duties so conferred and imposed are to be exercised and performed.]

[CHAPTER III.]

[JURISDICTION OF COURTS OF SMALL CAUSES.]

[10.] *4.* All suits of the classes specified in the schedule, *in which no relief is claimed in respect of immovable property and* of which the value does not exceed such sum not exceeding Rs. 500 as may be fixed in each case by the Government in this behalf, shall be cognizable by a Court of Small Causes; and no other suits shall be so cognizable. Provided that the Government may at any time add to or vary the schedule by a notification published in the official Gazette.

Cognizance of suits by Courts of Small Causes.

[11.] *5.* Save as expressly provided by this Regulation or by any other enactment for the time being in force, a suit cognizable by a Court of Small Causes shall not be tried by any other Court having jurisdiction within the local limits of the jurisdiction of the Court of Small Causes by which the suit is triable.

Exclusive jurisdiction of Courts of Small Causes.

[CHAPTER IV.]

[PRACTICE AND PROCEDURE.]

[12. The procedure prescribed in the chapters and sections of the Code of Civil Procedure specified in the second schedule to that Code shall, so far as those chapters and sections are applicable, be the procedure followed in a Court of Small Causes in all suits cognizable by it and in all proceedings arising out of such suits.]

Application of the Code of Civil Procedure.

[13. When the Judge of a Court of Small Causes is absent, the chief ministerial officer of the Court may exercise from time to time the power which the Court possesses of adjourning the hearing of any suit or other proceeding, and fix a day for the further hearing thereof.]

Adjournment of cases by chief ministerial officer.

[14.] *6* (1). Notwithstanding anything in the foregoing portion of this Regulation, when the right of a plaintiff and the relief claimed by him in a Court of Small Causes depend upon the proof or disproof of a title to immovable property, the Court may, at any stage of the proceedings, return the plaint to be presented to a Court having jurisdiction to determine the title.

Return of plaints in suits involving questions of title to immovable property.

(2) When a Court returns a plaint under sub-section (1), it shall comply with the provisions of [the second paragraph of section 57 of] the Code of Civil Procedure *regarding the return of plaints* and make such order with respect to costs as it

deems just, and the Court shall, for the purposes of the [Indian Limitation Act, 1877,] *the Mysore Limitation Regulation*, be deemed to have been unable to entertain the suit by reason of a cause of a nature like to that of defect of jurisdiction.

Non-suiting in certain cases.

[14 A] *7.* In every case in which satisfactory proof shall not be given entitling either the plaintiff or the defendant to judgment, a Court of Small Causes shall have power to non-suit the plaintiff, *subject to such orders as to costs as the Court may in each case think fit*: provided that a plaintiff who has been non-suited under this section may, subject to the law of limitation, bring a fresh suit on the same cause of action.

Trial by composite Court.

[14 B] *8.* In all suits where the amount claimed shall exceed *fifty* [one hundred] rupees, it shall be lawful for the plaintiff or the defendant to require the suit to be tried by a composite Court, on his depositing such costs and furnishing such security and giving such notice as may be determined by the Court, in accordance with rules to be framed in this behalf by the Chief Court.

When such an application has been made and allowed, the case shall be heard by a Court composed of the Judge of the Court in which the suit has been instituted, another Judge of a Civil Court not superior in rank to such Judge or, where there is no such Judge present at the place, a Magistrate to be deputed by the Magistrate of the District, and two jurors to be selected in accordance with rules to be framed in this behalf by the Chief Court.

The Judge of the Court in which the suit has been filed shall preside at the trial and shall have a casting vote whenever the members are equally divided in opinion; and judgment shall be delivered according to the opinion of a majority of the members of the composite Court.

The rules to be framed by the Chief Court under this section shall be subject to the previous sanction of Government.

Appeals from certain orders of Courts of Small Causes.

[15.] *9.* Where an order specified in section [588, clause (29),] *104, clause (1) (h)*, of the Code of Civil Procedure, is made by a Court of Small Causes, an appeal therefrom shall lie to the District Court.

Revision of decrees and orders of Courts of Small Causes.

[16.] *10.* The Chief Court, for the purpose of satisfying itself [that] *as to the correctness, legality or propriety of* a decree or order made in any case decided by a Court of Small Causes [was according to law], may call for the case and pass such order with respect thereto as it thinks fit.

Finality of decrees and orders.

[17.] *11.* Save as provided by this Regulation, a decree or order made under the foregoing provisions of this Regulation by a Court of Small Causes shall be final.

[CHAPTER V.]

[SUPPLEMENTAL PROVISIONS.]

Subordination of Courts of Small Causes.

[18. A Court of Small Causes shall be subject to the administrative control of the District Court, and to the superintendence of the Chief Court, and shall—

(*a*) keep such registers, books and accounts as the Chief Court from time to time prescribes, and

(*b*) comply with such requisitions as may be made by the District Court, the Chief Court or the Government for records, returns and statements in such form and manner as the authority making the requisition directs.]

Seal.

[19. A Court of Small Causes shall use a seal of such form and dimensions as are prescribed by the Government.]

Abolition of Courts of Small Causes.

[20. The Government may, by order in writing, abolish a Court of Small Causes.]

[21. (1) Nothing in this Regulation shall be construed to prevent the Government from appointing a person who is a Judge of a Court of Small Causes to be also a Judge of any other Civil Court or to be a Magistrate of any class or to hold any other public office.

Saving of power to appoint Judge of Court of Small Causes to other office.

(2) When a Judge is so appointed, the ministerial officers of his Court shall, subject to any rules which the Government may make in this behalf, be deemed to be ministerial officers appointed to aid him in the discharge of the duties of the other office.]

[Application of Regulation to Courts invested with jurisdiction of Court of Small Causes.]

[22. (1) So much of Chapters III and IV as relates to—

(*a*) the nature of the suits cognizable by Courts of Small Causes,

(*b*) the exclusion of the jurisdiction of other Courts in those suits,

(*c*) the practice and procedure of Courts of Small Causes,

(*d*) appeal from certain orders of those Courts and revision of cases by them,

and

(*e*) the finality of their decrees and orders subject to such appeal and revision as are provided by this regulation,

applies to Courts invested by or under any enactment for the time being in force with the jurisdiction of a Court of Small Causes so far as regards the exercise of that jurisdiction by those Courts.

(2) Nothing in sub-section (1) with respect to Courts invested with the jurisdiction of a Court of Small Causes applies to suits instituted or proceedings commenced in those Courts before the date on which they were invested with that jurisdiction.]

[23.] *12.* A Court invested with the jurisdiction of a Court of Small Causes, with respect to the exercise of that jurisdiction, and the same Court with respect to the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, shall, for the purposes of this Regulation and the Code of Civil Procedure, be deemed to be different Courts.

Application of Regulation and Code to Court so invested as to two Courts.

[Modification of Code as so applied.]

[24.] [Notwithstanding anything in the last two foregoing sections—]

[(*a*)] *Provided that* when, in exercise of the jurisdiction of a Court of Small Causes, a Court invested with that jurisdiction sends a decree for execution to itself as a Court having jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, *it shall not be necessary, unless the Court otherwise directs, to send the documents prescribed by the Code of Civil Procedure in the case of transfer of decrees for execution from one Court to another.* [or]

[(*b*) When a Court, in the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, sends a decree for execution to itself as a Court invested with the jurisdiction of a Court of Small Causes,—

the documents mentioned in section 224 of the Code of Civil Procedure shall not be sent with the decree, unless in any case the Court, by order in writing, requires them to be sent.]

[25.] *13.* (1) Where a Court of Small Causes or a Court invested with the jurisdiction of a Court of Small Causes has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to the case, whether before or after decree, which, if the Court had not ceased to have jurisdiction, might have been had therein, may be had in the Court which, if the suit out of which the proceeding has arisen were about to be instituted, would have jurisdiction to try the suit.

Continuance of proceedings of abolished Courts.

(2) Nothing in this section applies to cases for which special provision is made in the Code of Civil Procedure, as extended to Courts of Small Causes, or in any other enactment for the time being in force.

Publication of certain orders.

[26. All orders required by this Regulation to be made in writing by the Government shall be published in the official Gazette.]

SCHEDULE I.

SUITS COGNIZABLE BY COURTS OF SMALL CAUSES.

(See section [10] 4.)

(1) A suit for money lent;
(2) A suit for money by or against a surety;
(3) A suit for the price of goods sold;
(4) A suit *for money* on a contract for work and labour;
(5) A suit *for money* on a contract of hiring and service;
(6) A suit for rent when there is an express agreement to pay;
(7) A suit for payment for board [and] *or* lodging;
(8) A suit for money received by defendant for plaintiff's use;
(9) A suit for money paid to defendant by mistake or money overpaid;
(10) A suit for money paid or goods delivered at defendant's request;
(11) A suit for damages for breach of a contract of sale of goods;
(12) A suit for money deposited [when the total deposit does not exceed the pecuniary jurisdiction of the Court];
(13) A suit for recovery of specific movable property pledged or deposited with the defendant, or its value.

SCHEDULE II.

Amendment of the Mysore Civil Courts Regulation, I of 1883.

Section 3.—The word "four" shall be substituted for the word "three" and the words "4thly, the Court of Small Causes" shall be inserted after the words "3rdly, the Court of the Munsiff."

Section 4-(a).—The words "and of the Courts of Small Causes" shall be inserted after the word "Munsiffs."

Section 5.—The words "or of a Court of Small Causes" shall be inserted after the word "Munsiff."

Section 10A.—After Section 10, the following new section shall be added, namely:—

"10 A. The jurisdiction of a Court of Small Causes shall be regulated in accordance with the law relating to such Courts for the time being in force in Mysore."

Section 19.—The conjunction "or" occurring after the words "Subordinate Judge" shall be omitted and the words "or a Judge of a Court of Small Causes" shall be inserted after the word "Munsiff."

Section 21.—The word "and" occurring before the word "Munsiffs" shall be omitted and the words "and Judges of Courts of Small Causes" shall be inserted after the said word.